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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,279	02/01/2001	David Karl Bidner	200-0824	8275

7590 01/11/2002

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EXAMINER

TRAN, DALENA

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 01/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/775,279

Applicant(s)

BIDNER ET AL.

Examiner

DALENA TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 February 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
 - 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Notice to Applicant(s)

1. This application has been examined. Claims 1-12 are pending.
2. The prior art submitted on 2/1/01 has been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1, and 4, as understood by examiner, are rejected under 35 U.S.C.102(e) as being anticipated by Rodrigues et al. (6,213,242).

As per claim 1, Rodrigues et al. disclose a method of controlling a vehicle drive having a 4×4 mode of operation and other modes of operation using an electronic control system providing a torque output in response to driver demand, comprising: controlling torque output when the vehicle is in the 4 4 mode using a calibration table stored in system memory and indicating a relationship of torque output as a function of accelerator pedal position and a speed parameter (see column 2, lines 26-63; and columns 3-4, lines 65-13), and controlling torque output when the vehicle is in one of the other modes of operation using a different calibration table stored in system memory (see columns 2-3, lines 63-11; and column 4, lines 13-24).

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As per claim 4, Rodrigues et al. disclose first calibration table indicates a relationship of torque output as a function of the accelerator pedal position and the speed parameter that reduces sensitivity of torque output to accelerator pedal position in the 4 4 mode of operation (see column 3, lines 13-64).

5. Claim 7, as understood by examiner, are rejected under 35 U.S.C.102(e) as being anticipated by Zalewski et al. (5,695,022).

As per claim 7, Zalewski et al. disclose a method of controlling a vehicle drive having a 4 4 low mode of operation and other modes of operation using an electronic control system providing a torque output in response to driver demand, comprising: controlling torque output when the vehicle is in the 4 4 low mode using a calibration table stored in system memory and indicating a relationship of torque output as a function of accelerator pedal position and a speed parameter (see the abstract; and columns 2-3, lines 36-30), and controlling torque output when the vehicle is in one of the other modes of operation using a different calibration table stored in system memory (see columns 8-10, lines 40-24).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 2-3, and 6, as understood by examiner, are rejected under 35 U.S.C.103(a) as being unpatentable over Rodrigues et al. (6,213,242) in view of Zalewski et al. (5,695,022).

As per claim 2, Rodrigues et al. do not mention the torque output of the first calibration table comprises an output shaft torque value. However, Zalewski et al. mention for a vehicle drive including an automatic transmission, the torque output of the first calibration table comprises an output shaft torque value determined in response to accelerator pedal position and transmission output shaft speed (see columns 5-6, lines 58-50; and columns 11-12, lines 64-49). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teach of Rodrigues et al. by mention for a vehicle drive including an automatic transmission, the torque output of the first calibration table comprises an output shaft torque value determined in response to accelerator pedal position and transmission output shaft speed for increasing transmission output torque to improve vehicle operating conditions.

As per claim 3, Zalewski et al. mention the output shaft torque value is provided for a drive gear mode (see columns 6-8, lines 52-39; and columns 12-14, lines 50-35).

Also as per claim 6, Zalewski et al. mention the speed parameter is transmission output shaft speed for a vehicle drive comprising an automatic transmission (see columns 4-5, lines 33-57; and columns 14-16, lines 37-24).

8. Claim 5, as understood by examiner, are rejected under 35 U.S.C.103(a) as being unpatentable over Rodrigues et al. (6,213,242) in view of Tolkacz et al. (5,855,533).

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As per claim 5, Tolkacz et al. mention the speed parameter is engine speed for a vehicle drive comprising a manual transmission (see columns 7-9, lines 63-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teach of Rodrigues et al. by mentioning the speed parameter is engine speed for a vehicle drive comprising a manual transmission to provide control engine speed to be stable and within a prescribed speed range at the onset of the garage shift maneuver.

9. Claims 8-10 are system claims corresponding to method claims 1-2, and 7 above.

Therefore, they are rejected for the same rationales set forth as above.

Claims 11-12 are system claims corresponding to method claim 4 above. Therefore, they are rejected for the same rationales set forth as above.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- . Avery (5,522,776)
- . Pritchard et al. (5,890,986)
- . Oliveira et al. (6,251,045)
- . Hubbard et al. (6,319,170)

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Dalena Tran, whose telephone number is (703) 308-8223. The examiner can normally be reached on Monday-Friday from 7:00 AM-4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski, can be reached on (703) 308-3873.

Any response to this action should be mailed to:

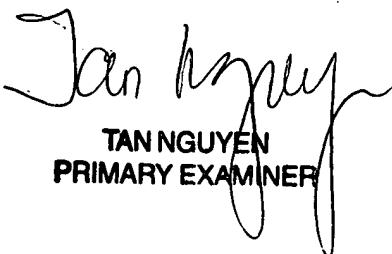
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 305-7687, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park V, 2451 Crystal Drive, Arlington, VA., Seventh Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.



TAN NGUYEN
PRIMARY EXAMINER

/dt

January 08, 2002